

Docket No: 62588(71699)

REMARKS

Claims 17 – 28, 33 and 37 – 44 are pending in this application. Claims 1 - 16 have been cancelled. Claims 17 and 33 have been amended. Support for the amendments to the claims can be found throughout the specification and claims as originally filed. In particular, support for the amendment to claim 17 can be found in the specification at page 14, for example at line 16 and line 23. New claim 45 has been added. Support for this claim can be found on page 15 beginning at line 9.

Any cancellation of the claims should in no way be construed as acquiescence to any of the Examiner's rejections and was done solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in this or a separate application(s).

Rejection of Claims 17-28, 33 and 37-44 Under 35 USC 112, first paragraph

The Examiner has rejected claims 17-28, 33 and 37-44 under 35 USC 112, first paragraph, for failing to comply with the written description requirement. Applicants respectfully traverse this rejection.

As amended, claim 17 is directed to a testing device for environmental monitoring and bioprospecting for microorganisms within a specified environment, where the device comprises a means for providing a plurality of physically separated, test microcosms that are so configured as to allow for fluid flow through said microcosms, wherein the test microcosms are holes in a solid block of material, wherein each microcosm is configured to allow fluid flow from an inlet to an outlet.

The Examiner has indicated that "(i)ndependent claim 17 includes the newly recited claim language 'wherein the test microcosms are wells of a multiwell plate' (and) (w)hile the originally filed disclosure provides support for 'microtiter plate', the Examiner is unable to locate support for the instant claim language." (Office Action, p.2).

While in no way acquiescing to the validity of the Examiner's rejection, and solely in the interest of expediting prosecution, Applicants have amended claim 17. Dependent claim 33 has also been amended. Support for the amendment to claim 17 can be found in the specification, for example at page 14, beginning at line 16.

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Accordingly, Applicants respectfully request that the rejection be withdrawn and the claims allowed.

Rejection of Claims 17-28, 33 and 37-44 Under 35 USC 112, second paragraph

The Examiner has rejected claims 17-28, 33 and 37-44 under 35 USC 112, second paragraph, for alleged infiniteness. Applicants respectfully disagree.

The amended claims have been set forth above.

The Examiner argues that "(i)n claim 17 recitation of 'wherein the test microcosoms are wells of a multiwell plate' is indefinite." (Office Action, p.3). Applicants have amended the claims and respectfully request that this rejection be withdrawn.

The Examiner argues that "(i)n claim 33, 'the content' lacks antecedent basis...claim 17 is silent with respect to the content of the microtiter plate." (Office Action, p.3). Applicants have amended the claim to recite proper antecedent basis and respectfully request the this rejection be withdrawn.

The Examiner indicated on page 4 of the Office Action that "claims 17 - 28, 33 and 37 - 44 would be allowable if amended to clearly define the structure of a 'rapidly exchangeable microtiter plate' or 'multiwell plate'." (Office Action, p.4).

Accordingly, Applicants believe that all claims 17 - 28, 33 and 37 - 44 are allowable.

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Conclusion

In view of the above amendment, Applicant believes the pending application is in condition for allowance. If a telephone conference with the Applicant's Agent would expedite allowance of this application, the Examiner is asked to call the undersigned at the number indicated below.

Dated: November 21, 2008

Respectfully submitted,

By 

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